

11-25-08

#16

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Brian Giora

Document No.: CH920000065US1

Serial No.: 09/773227

Group Art Unit: 2111

Filed: January 31, 2001

For: DATA COMMUNICATIONS INTERFACES

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION ON DECISION ON PETITION

Sir:

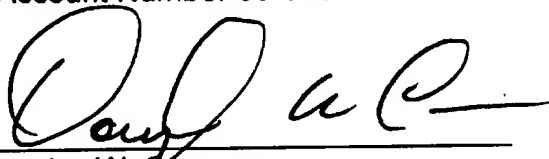
In response to the Dismissal of the Renewed Petition under 37 CFR 1.137(b) to revive the instant application, which Dismissal was mailed from the Office of Petitions on September 25, 2008, applicant provides more detailed information as to the cause of abandonment as explained below.

As per conversation with Ron Drumheller of November 19, 2008, the lightning strike had to have occurred prior to September 21, 2001, the date on which he made a claim to the American Power Conversion Company (APC), the manufacturer of a power unit of his that was destroyed by the lightning strike. Ron had obtained knowledge of the latter date as a result of a telephone conversation of November 19, 2008 with representatives of APC. Ron is also aware that he stated in the hand written letter that the date of the lightning strike was in 2003. As the above conversation with Ron Drumheller, in the early part of 2002, Ron started and still is taking medication, which he claims may be the cause of his memory problems. Further, according to what Ron had told me, the Office Action of July 25, 2003 was neither in his computer files, nor in his

paper docket file for the instant application. As per Ron's statement, he either did not receive the latter Office Action from the USPTO or had inadvertently misplaced it. Neither Ron nor my office has a copy of the 2004 letter on file. The records, however, indicate that a Notice of Abandonment was mailed from the USPTO on March 25, 2004 to Ron Drumheller's home address, where abandonment resulted from failure to respond to the aforementioned Office Action of July, 2003.

Any additional fees may be charged to Account Number 09-0468.

Dated: 11/25/08


Douglas W. Cameron
Reg. No. 31,596
Telephone: 914-945-3244

IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, New York 10598



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OFFICE OF PETITIONS

In re Application of
Biran GIORA
Application No. 09/773,227
Filed: January 31, 2001
Attorney Docket No. CH9-2000-0065

Paper No. 15

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: DECISION ON PETITION
:
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due 11/25/08

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 02, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 25, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2003. A Notice of Abandonment was mailed to applicant on March 25, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

The office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

The Dismissal dated April 02, 2008 and the subsequent letter from Attorney Cameron required Mr. Drumheller to provide an explanation as to why abandonment took place by October 26, 2003. The statement from Drumheller fails to provide details such as dates of the alleged lightning strike in Mr. Drumheller's office. Also, a copy of the communication of the letter referenced in the last paragraph of Mr. Drumheller's statement concerning an alleged directive from management, needs to be included with any further request for reconsideration of this decision.

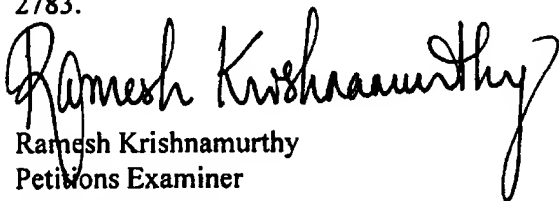
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions